

MT LEGISLATIVE HISTORY

Chapter 530 1981

Bill H _____ S 267

Original bill & hist. C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) Mar 12 ☒ C

Hearing Date(s) Feb 13 ☒ C

Mar 13 ☒ C

Feb 14 ☒ C

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Date Out Mar 13 ☒ C

Feb 14 ☒ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

COMMITTEE ON JUDICIARY

DEBATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
SB 246	1/23/81	2/16/81	2/20/81			2/20/81			
SB 253	1/23/81	2/16/81	2/20/81			2/20/81			
SB 265	1/26/81	2/12/81	2/14/81			2/14/81			
SB 267	1/26/81	2/13/81	2/14/81			2/14/81			
SB 268	1/26/81	2/12/81	2/12/81			2/12/81			
SB 272	1/26/81	2/13/81	2/20/81			2/20/81			
SB 277	1/26/81	2/16/81	2/18/81			2/18/81			
SB 286	1/26/81	1/30/81	2/05/81			2/05/81			
SB 287	1/26/81	2/12/81	2/19/81			2/19/81			
SB 288	1/27/81	2/03/81	2/18/81	2/18/81					
SB 289	1/27/81	2/17/81	2/19/81			2/19/81			
SB 290	1/27/81	2/17/81	2/18/81	2/18/81					
SB 305	1/28/81	2/06/81	2/06/81	2/06/81					
SB 306	1/28/81	2/06/81	2/06/81	2/06/81					
SB 308	1/28/81	2/06/81	2/06/81	2/06/81					
SB 309	1/28/81	2/09/81	2/11/81			2/11/81			

Use a separate sheet for Senate, House Bills, and Resolutions.

the state each year from the individuals and companies who are the target of this bill. Senator O'Hara agreed, and wondered whether, in fact, enough of a problem exists to warrant the bill. Mr. Weinberg stated that contractors are the specific problem.

Senator Mazurek suggested rather than killing the bill, that Mr. Alke work with him and the Department of Revenue to solve existing problems in it. Mr. Alke tentatively agreed to, if HB 416 were dropped.

CONSIDERATION OF SENATE BILL 369:

IMPLEMENTING CONST. AMEND. #9 REGARDING
CONFIDENTIALITY OF PROCEEDINGS BEFORE
THE JUDICIAL STANDARDS COMMISSION.

Senator Ochsner, District 26, presented the bill on behalf of the court judges, and read the bill aloud. A witness who was supposed to have presented testimony on the bill failed to show up, so Mike Abley, of the Supreme Court, explained that the bill is an attempt to develop a happy medium between current law and the provisions of SB 288.

Senator S. Brown moved that the bill be held to see if the witness would appear later, and that the committee allow him to speak if he arrived. This motion received unanimous acceptance.

CONSIDERATION OF SENATE BILL 267:

REVISING ADOPTION, RELINQUISHMENT AND
PLACEMENT OF CHILDREN FOR ADOPTION LAWS.

Senator Mazurek introduced the bill at the request of the Social and Rehabilitation Services. The principal purpose is to get some control over private adoptive placements.

Burt Annin, attorney with the Department of Social and Rehabilitation Services, offered amendments (marked Exhibit B and attached to these minutes).

John Frankino, Director of the Catholic Social Services of Montana, spoke in support of the bill with the amendments.

Randy Gray, representing the Lutheran Social Services of Montana, presented statistics which supported the bill. He said that society's standards have changed greatly so that more unwed mothers are keeping their children; and the resulting shortage of adoptable babies has led to an increase in the "black market" baby problem. He felt that this bill

would encourage the birth mother to seek counseling before relinquishing her child. He endorsed the bill with its amendments.

Betty Bay, Program Manager for Adoption for the S.R.S., supported the bill.

Kenneth Gjerde, representing the Lutheran Social Services in Great Falls, spoke in support of the bill and spoke of the importance of the medical record established for a child, including family illnesses, inherited traits, etc.

CONSIDERATION OF SENATE BILL 245:

GENERALLY REVISING THE LAWS RELATING
TO HEALTH AND THE FAMILY.

The bill was introduced by Senator Mazurek at the request of the Department of Health and Environmental Sciences. He took the committee through the changes being sought in the bill.

John Wilson, Chief of the Bureau of Records and Statistics for the Department of Health and Environmental Sciences, presented written testimony (marked Exhibit C and attached to these minutes), and showed the committee the poor condition of the current records. He said that the added revenue from the increase in the fee for obtaining a certified copy of a birth certificate could be used in keeping more usable, accurate records.

In closing, Senator Mazurek pointed out that the Department of Health had asked that the two dollar fee be increased to three dollars; but the Governor had changed the request to five dollars. He felt this issue could be negotiated.

CONSIDERATION OF SENATE BILL 209:

PROVIDING FOR THE PAYMENT OF COURT
JUDGMENTS IN PERIODIC INSTALLMENTS.

Senator Mazurek introduced the bill at the request of a member of the National Conference of Commissioners of Uniform State Laws. He presented Exhibit D, attached to these minutes, as written testimony, and stated that the purpose is to provide for the payment of large damage awards over the course of a person's life rather than in a large single settlement. The drafter of the bill did not appear for this meeting.

Mike Meloy, opposing the bill on behalf of the Montana Trial Lawyers Association, stated that the bill is confusing and complicated, and uses a Uniform Act which was designed to

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ADDRESS: 317 41st St. South Great Falls MONT

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REPRESENTING WHOM? LUTHERAN SOCIAL SERVICE MONTANA

APPEARING ON WHICH PROPOSAL: SB 267

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: THIS BILL NOT ONLY PROVIDES FOR A HOME STUDY ASSESSMENT
~~PROCESSES~~ THE ~~OFF~~ ~~FILE~~

OF THE ADOPTIVE FAMILY TO ASSURE THE BEST POSSIBLE PLACEMENT

FOR THE CHILD; IT, INHERENTLY, PROVIDES FOR THE ESTABLISHMENT

OF A PERMANENT FILE ON THE CHILD FOR FUTURE REFERENCE

& CONTACT. SUCH AS: ① WHEN THE CHILD REACHES AGE 18,

& THAT PERSON WANTS TO FIND OR LEARN ABOUT HIS/HER BIRTH PARENTS

THE FILE PROVIDES THE RESOURCE.

② IT ESTABLISHES ^{EXTENSIVE} ~~AN~~ MEDICAL RECORD & HISTORY ON THE CHILD

& BIRTH PARENTS & THEIR ANCESTORS THAT FOLLOWS THE CHILD,

WE FREQUENTLY RECEIVE REQUESTS ^{FOR US} TO REVIEW FILES FOR

NON-IDENTIFYING MEDICAL RESEARCH. IN SERIOUS SITUATIONS WE

COULD POSSIBLY CONTACT THE BIRTH PARENTS FOR CURRENT

DATA ON THEIR FAMILY THAT WAS NOT AVAILABLE AT THE TIME

OF PLACEMENT. ③ IT ESTABLISHES A SOCIAL, CULTURAL, & INTEREST HISTORY
PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

TESTIMONY ON SENATE BILL NO. 267

An Act to generally revise the laws relating to adoption and to amend the laws relating to relinquishment and placement of children for adoption by their parents without Agency involvement.

The Department of Social and Rehabilitation Services requested introduction of this Bill. The Bill is supported by the licensed Child Placing Agencies in the State. The purpose of the Bill is to insure that the rights of all those involved in an adoption are protected. The rights of children placed for adoption by their parents without Agency involvement must be protected. Currently SRS is ordered to investigate all adoptions upon the filing of a petition to adopt. The petition to adopt could be filed at one week, one month or one year after the child is placed by the parents in the home of their choice. The appropriateness of the child for placement, the suitability of the home for the child and insurance of rights of all parties should be investigated prior to placement of the child into the home. For this reason, parents will be required to file a petition in District Court stating their decision to make an adoption plan for their child. The Report to the Court by SRS or a licensed child placing agency will advise that rights are insured. The requirement may be waived when the child to be adopted is a member of the extended family of one of the petitioners or is a stepchild of the petitioner.

The second part of the Bill clarifies language in the Adoption Act currently in use. This fulfills a need for definition of adoption terms used in the current statute.

Betty Bay
S. R. S.

DISPOSITION OF SENATE BILL 112:

Senator Tveit moved to amend the bill on page 1, line 19, following "." by inserting "At any time after receiving a complaint, the commission may notify the parties that it declines further jurisdiction and thereupon the complainant may petition the district court". This motion passed unanimously.

Senator Anderson asked if Senator Tveit would change "may" to "shall" in line 14. Putting it into the form of a motion, it carried five to four with one abstention on a roll call vote.

DISPOSITION OF SENATE BILL 29:

Senator S. Brown moved to amend page 2, line 4, following "residential", by inserting "or commercial"; and on page 3, line 7, following "residential", by inserting "or commercial". These amendments passed unanimously. It was then specified that it was the intent of the author of the bill and the intent of the committee that this language apply to all established farm businesses. Senator S. Brown moved that the bill DO PASS AS AMENDED, and the motion carried unanimously.

DISPOSITION OF SENATE BILL 245:

Senator Mazurek moved to amend the bill on page 5, line 20, by striking "\$5" and inserting "\$3". His motion passed unanimously. Senator S. Brown moved that the bill DO PASS AS AMENDED, and the motion carried unanimously.

DISPOSITION OF SENATE BILL 267:

Senator Mazurek moved to amend the bill as shown on the attached Committee Report. The amendments passed unanimously. He then moved that the bill DO PASS AS AMENDED, and the motion carried with Senator Olson objecting.



The signature is written in cursive and appears to read 'Mike Anderson'.

Leah P

Amendments to SB 267 presented at the Senate Judiciary Committee hearing
on February 13, 1981.

page four, section four, line 21: following "department" add:

or a licensed child-placing agency

page five, section six, lines 12-13: delete

lines 20-21: delete; renumber definit

page eight, section eight, line 8: delete line eight in its entirety according

line 10; strike the semi-colon following "child"

add: as defined in 41-3-102(3)(d).

page eleven, section eleven, line 3: following "that" add:

the department ~~is~~

delete: a child-placing agency

STANDING COMMITTEE REPORT

February 14, 1931

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 267

Respectfully report as follows: That SENATE Bill No. 267
be amended as follows:

1. Page 4, line 21.
Following: "department"
Insert: "or a licensed child-placing agency"
2. Page 5.
Strike: lines 12, 13, 20 and 21 in their entirety.
Renumber: subsequent subsections
3. Page 8, line 7.
Following: "toward the child"
Strike: "L"
4. Page 8, line 8.
Strike: "as defined in 41-3-102(3)(d)"
5. Page 8, line 10.
Following: "child"
Insert: "as defined in 41-3-102(3)(d)"
~~ED:PASS~~

continued

February 14 19 81

6. Page 11, line 3.

Following: "that"

Strike: "licensed child placing agency"

Insert: "the department"

And, as so amended,
DO PASS

JUDICIARY COMMITTEE

47th Legislature
SENATE BILLS

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
245	Generally revising the laws relating to health and the family.	2/21/81	Mazurek	3/12/81	Do Pass 3/17/81	3/17/81
265	Amending 72-15-301 to increase the compensation for estate public administrations.	2/21/81	Hager	3/13/81	Do Pass 3/13/81	3/13/81
267	Revising adoption, relinquishment and placement of children for adoption laws.	2/21/81	Mazurek	3/12/81	Do Pass 3/13/81	3/13/81
268	Taxing the costs of impaneling a jury against parties who fail to inform the court of a settlement.	2/19/81	Graham	3/18/81	Do Pass 3/18/81	3/18/81
286	Generally revising the laws relating to the prisoner furlough program.	2/13/81	Van Valkenburg	3/18/81	Do Pass as Amended 3/24/81	3/24/81
302	Amending 7-4-2706 to allow county attorneys to complete legal matters remaining from private practice.	2/13/81	McCallum	3/18/81	Do Pass 3/18/81	3/18/81

SENATE BILL 267 SENATOR MAZUREK, sponsor, stated this bill is to revise adoption, relinquishment and placement of children for adoption laws. This bill is introduced on behalf of the SRS. This deals with the black market baby situation.

Section 1 of the bill outlines information that is required in a petition. Section 2 requires that mothers receive counseling. Section 3 would set up the process of updating an order of relinquishment. Section 4 is a clean up provision. When an agency is working with the mother and she wants to give up the child, the agency sometimes runs into a problem because they don't know what the father's option is. Under present statute it is difficult to do that.

Section 5 are definitions that are generally used but not in the act. Section 7 lists the status of who may be adopted. Section 8 updates the language who is required to consent to adoption. Section 10 lists who may place the child. Section 11 is a new requirement aimed at the black market situation. In any agency adoption the agency is required to investigate the home and family. The idea is to require information be given at that point, i.e. medical history. If a mother just gave her child to a family, they might not file the adoption for a number of years. This would provide that at the time of placement an investigation be made.

Section 12 provides that a petition for adoption must be filed within one year.

JOHN FRANKINO, Montana Catholic Conference, was in support of the bill. The private adoption agencies have reviewed this. They are sensitive about this subject but with the amendment they approve of the bill.

BETTY BAY, SRS, was in support of the bill. EXHIBIT 2.

There were no further proponents.

There were no opponents.

In closing, SENATOR MAZUREK stated the change FRANKINO was referring to is on page 11 of the bill. Agencies do not have the financial backing to do this.

REP. CURTISS asked how many licensed agencies there are in the state. The Senator replied he was not sure. The role of the agencies, however, would not change at all.

REP. HANNAH asked if there was any danger by changing on page 11 to the Department setting up a government agency that would be responsible for all adoption in the state. SENATOR MAZUREK replied they are responsible for investigating priorities to any adoption. REP. HANNAH stated if the government is responsible it seems we are taking away the authority of the private agencies. The Senator replied he did not think so. If a private agency is involved an investigation is conducted to determine if the person is acceptable to be on the waiting list.

REP. HANNAH asked if it addressed the ability to become a licensed child placement agency. No was the answer.

REP. SEIFERT asked if this also refers to tribal courts. It was replied in domestic matters they have jurisdiction on the reservation. The Indian Child Welfare Act was passed a few years ago.

REP. CURTISS asked if the department is cooperative with the private organizations. FRANKINO replied yes, always. REP. CURTISS asked if any agency has ever been refused a license. SENATOR MAZUREK was not aware of any.

SENATE BILL 404 SENATOR MAZUREK, sponsor, stated this bill's purpose is to generally revise the law relating to the appointment of guardians for incapacitated persons. This bill has had much work performed in the interim committee. EXHIBIT 3.

The American Bar Association adopted a resolution to encourage the enactment of this legislation. A large number of disabled persons do not have the capacity to act on their own.

The provisions under existing law on probate do not deal with guardianship. This recommends the updating of those procedures. This is not a tool for people to file lawsuits against the state. We need the bill because it will clear up many things.

Section 1 of the bill provides limited guardianship. As the disabled person goes out in the community he may not be able to handle a certain item. A guardian might not want to take all the responsibility for the person but will take some of it. The listing of priority in subsection A provides that the association is at the top of the list. Whoever is appointed must be the best qualified and willing to serve. Section 10 authorizes temporary guardians.

This bill is necessary because the people are not willing to step forward and do this. This will allow them the flexibility and will encourage more people to respond.

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S. R. S.

fees would not be raised, only the public administrators.

REP. HANNAH asked why set the rate, is there an abuse? SENATOR HAGER responded this would relate to the person who dies without heirs. The county has to settle the estate, which is the only function of the public administrator. REP. KEEDY stated with the basic cost of inflation, the money would be increased anyway. Wouldn't that increase the fee? The Senator responded no it would not. He did not feel that would handle the problem.

REP. MATSKO asked who pays for the attorney in these cases. It was replied the state does.

The Senator stated if your uncle died and you were appointed administrator, you would be receiving 2% of the estate for performing the duties. The public administrator handles the estate if there are no relatives available.

EXECUTIVE SESSION

SENATE BILL 216 REP. HANNAH moved do pass.

REP. HANNAH moved the amendments as in EXHIBIT 2. The amendments carried with REP. BROWN voting against it.

REP. HANNAH moved do pass as amended. The motion carried with REP. BROWN voting against it.

SENATE BILL 245 REP. CURTISS moved do pass.

It was decided to hold the bill until REP. BENNETT was present with some proposed amendments.

SENATE BILL 267 REP. EUDAILY moved do pass.

REP. EUDAILY moved on page 3, line 7 to insert "court" after "the". REP. BROWN felt the amendment was unnecessary. REP. HANNAH felt that the supreme court demonstrated we need the bill to be redundant.

The motion resulted in a roll call vote. Those voting yes for the amendment were: CURTISS, EUDAILY, HANNAH, MATSKO, DAILY and ABRAMS. Those voting no were: KEYSER, SEIFERT, CONN, MCLANE, SHELDEN, KEEDY, TEAGUE and BROWN. The amendment failed 8 to 6.

The motion of do pass carried with MCLANE, CURTISS and DAILY voting no.